



FEDERAL ELECTION COMMISSION

WASHINGTON, D C 20463

B. Jeffrey Brooks, Treasurer
ARPAC
401 9th St. NW
Suite 610 South
Washington, DC 20004

JUN 16 2006

RE: MUR 5757

Dear Mr. Brooks:

On May 31, 2006, the Federal Election Commission found that there is reason to believe that ARPAC and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). This finding was based upon information ascertained in the normal course of carrying out its supervisory responsibilities. *See* 2 U.S.C. § 437g(a)(2). The Factual and Legal Analysis, which more fully explains the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred

Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

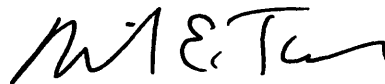
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If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Wanda Brown, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Michael E. Toner
Chairman

Enclosures
Factual and Legal Analysis

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1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

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4
5 **RESPONDENTS:** ARPAC and **MUR: 5757**
6 B. Jeffrey Brooks, in
7 his official capacity as treasurer
8

9 **I. INTRODUCTION**

10 As it pertains to these respondents, this matter was generated based on
11 information ascertained by the Federal Election Commission ("the Commission") in the
12 normal course of carrying out its supervisory responsibilities. *See* 2 U.S.C. § 437g(a)(2).
13 ARPAC, a multicandidate committee, and B. Jeffrey Brooks, in his official capacity as
14 treasurer (the "Committee"), failed to file the following disclosure reports for the 2004
15 election cycle, in violation of 2 U.S.C. § 434(a)(4): the 2003 Year-End, 2004 April
16 Quarterly, 2004 July Quarterly, 2004 October Quarterly, 12-Day Pre-General, 30-Day
17 Post-General and 2004 Year-End Reports.

18 Therefore, as discussed below, there is reason to believe that the Committee, and
19 B. Jeffrey Brooks, in his official capacity as treasurer, violated 2 U.S.C. § 434(a) by
20 failing to file reports of receipts and disbursements as required by the Federal Election
21 Campaign Act of 1971, as amended ("the Act").

22 **II. FACTUAL AND LEGAL ANALYSIS**

23 ARPAC is a multicandidate political committee as defined by 2 U.S.C.
24 § 441a(a)(4), and has filed disclosure reports with the Federal Election Commission since
25 1993.¹ The Act requires that all committees file reports of receipts and disbursements in

¹ Public information reveals that the treasurer, B. Jeffrey Brooks, is the "Partner in Charge" of the law firm Adams & Reese, LLP, which is located at 401 9th Street Northwest, Washington, DC, the same address the Committee provided to the Commission in its statement of organization. *See* <http://adamsandree.com/attorneys/search.html>.

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1 accordance with the provisions of the Act. 2 U.S.C. § 434(a). The Committee should
2 have filed Quarterly Reports no later than fifteen days after the last day of each calendar
3 quarter, except for the quarter ending on December 31 of the calendar year, which should
4 have been filed no later than January 31 of the following year. 2 U.S.C.
5 § 434(a)(4)(A)(i). The Committee should have also filed a Pre-General Election Report
6 no later than the twelfth day before any election in which it made a contribution to or an
7 expenditure on behalf of a candidate in such election (2 U.S.C. § 434(a)(4)(A)(ii)), and a
8 Post-General Election Report, no later than the thirtieth day after the general election
9 (2 U.S.C. § 434(a)(4)(A)(iii)).

10 On January 29, 2004, the Committee filed a Miscellaneous Report with the
11 Commission indicating that the Committee's hard drive had crashed while attempting to
12 file the 2003 Year-End report. The Committee stated that they hoped to correct this
13 problem and file the Year-End Report by the January deadline. However, the Committee
14 did not file the Report by the deadline, nor did the Committee file subsequent Reports for
15 the 2004 election cycle. After the deadline for each of these reports had passed, the
16 Commission sent notices to the Committee that the failure to file could result in civil
17 penalties, audits, or legal enforcement. The Committee did not respond to these notices,
18 and did not further communicate with the Commission, until on March 31, 2005, when
19 Committee representative Read Irvin called the Commission asking when the next report
20 was due to the Commission. The Commission advised Mr. Irvin that while the next
21 report was the 2005 Mid-Year Report due on July 31, 2005, the Committee had not filed
22 any reports since the 2003 Mid-Year Report, which was filed July 11, 2003. Ultimately,

- 1 the Committee filed all of the missing reports from 2003 and 2004 in April of 2005.
2 These reports are listed in the following chart.

3 **REPORT FILED RECEIPTS DISBURSMENTS TOTAL**

2003 Year-End	April 27, 2005	\$12,500.00	\$15,376.04	\$27,876.04
2004 April Quarterly	April 27, 2005	\$12,500.00	\$ 9,500.00	\$22,000.00
2004 July Quarterly	April 27, 2005	\$36,000.00	\$16,250.00	\$52,250.00
2004 October Quarterly	April 28, 2005	\$17,106.02	\$21,250.00	\$38,356.02
2004 Pre-General ²	April 28, 2005	No Receipts Reported	\$ 250.00	\$ 250.00
2004 Post-General Report	April 28, 2005	\$ 0.00	\$12,000.00	\$12,000.00
2004 Year-End	April 28, 2005	\$ 0.00	\$ 3,500.00	\$ 3,500.00
4 Totals		\$ 78,106.02	\$ 78,126.04	\$156,232.06

- 5 Because the Reports were not filed until 2005, the 2003 Year-End Report and all of
6 the 2004 Reports are considered not filed by the Commission's Regulations. Specifically,
7 the Committee failed to file two Election Sensitive Reports prior to four (4) days before the
8 general election: the 2004 October Quarterly Report and the 2004 Pre-General Election
9 Report.³ The remaining reports filed by the Committee in April 2005 were not Election
10 Sensitive Reports and would be considered not filed if they are filed after thirty days of their

² The Committee was required to submit a Pre-General Report because it made a general election contribution or expenditure during the period of October 1, 2003 to October 13, 2004. The report filed on April 28, 2005, disclosed a \$250 disbursement to the principal campaign committee of a candidate for the House of Representatives.

³ Election Sensitive Reports are considered to be not filed if they are not filed prior to four (4) days before the general election. 11 C.F.R. § 111.43(e)(2). Election Sensitive Reports means third quarter reports due on October 15th before the general election; monthly reports due October 20th before the general election; and pre-election reports for primary, general, and special elections. 11 C.F.R. § 111.43(d).

1 due dates or not filed at all. 11 C.F.R. § 111.43(e)(1). Here, the Committee failed to file
2 reports that were not election sensitive within thirty days of their due date.

3 No further investigation is necessary to determine that the Committee and
4 B. Jeffrey Brooks, in his official capacity as treasurer, failed to report \$156,232.06 in
5 federal activity for the 2004 election cycle, in violation of 2 U.S.C. § 434(a).
6 Accordingly, there is reason to believe that the Committee and B. Jeffrey Brooks, in his
7 official capacity as treasurer, violated 2 U.S.C. § 434(a) by failing to report federal
8 activity.

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